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*Group, Inc. d/b/a American Airlines, erroneously*

*Sued as American Airlines, Inc., a foreign corporation*

**UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

Sean Bennett, an individual,

Plaintiff,

vs.

City of Phoenix, a governmental entity;

American Airlines, Inc., a foreign  
corporation; Officer Joel Cottrell and Jane

Doe Cottrell, a married couple; Officer

Benjamin Denham and Jane Doe Denham, a

married couple; Officer Todd Blanc and Jane

Doe Blanc, a married couple; Officer Peru

and Jane Doe Peru, a married couple;

Sergeant Hogan and Jane Doe Hogan, a

married couple;

Defendant(s).

Case No. 2:23-cv-02425-ROS--DMF

**DEFENDANT AMERICAN AIRLINES  
GROUP, INC., d/b/a AMERICAN  
AIRLINES' MOTION FOR COURT  
TO RETAIN JURISDICTION**

Honorable Judge: Roslyn O. Silver  
Magistrate Judge: Deborah M. Fine

Defendant American Airlines Group, Inc. ("American Airlines") hereby moves for this Court to retain jurisdiction over this litigation on the grounds that this Court has original jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446. American Airlines

Provides the following in support of this Motion:

**STATE COURT ACTION AND ORIGINAL REMOVAL**

1. On August 11, 2023, Plaintiff filed a Complaint against American Airlines, the City of Phoenix, and multiple City of Phoenix police officers, entitled *Sean Bennett v. City of Phoenix, et al.*, in the Superior Court of Maricopa County, case number CV2023-012270 (the “State Court Action”).

2. The Complaint alleged 42. U.S.C. § 1983 claims against all defendants except for American Airlines. The Complaint then alleged causes of action for negligence/gross negligence, assault, battery, false arrest and imprisonment, and intentional infliction of emotional distress against all defendants.

3. On November 20, 2023, Defendants City of Phoenix, Joel Cottrell, Todd Blanc, Rudolfo Peru, and Ryan Hogan filed a Notice of Removal to Federal Court pursuant to 28 U.S.C. §§ 1331 and 1441(a). **Dkt. #1.**

4. On November 21, 2023, Defendants City of Phoenix, Joel Cottrell, Todd Blanc, Rudolfo Peru, and Ryan Hogan filed a Motion to Dismiss. **Dkt. #8.**

5. On December 1, 2023, American Airlines filed its Answer. **Dkt. #9.**

6. On April 23, 2024, this Court entered an Order granting the Motion to Dismiss (**Dkt. #8**) and dismissing this action with prejudice as to all defendants except for American Airlines. **Dkt. #20.**

7. The Court invited American Airlines to seek to have the Court retain jurisdiction in this matter by preparing a Motion explaining why such jurisdiction is warranted within 10 days of the April 23, 2024 Order. **Dkt. #20.**

**GROUND & AUTHORITY FOR FEDERAL COURT JURISDICTION**

8. Pursuant to 28. U.S.C. § 1441(a), for any civil action brought in a state court, where a district court of the United States would have original jurisdiction, a defendant may remove the action to “the district court of the United States for the district and division embracing the place where such action is pending.”

1 9. American Airlines is now requesting the Court retain jurisdiction over this matter  
 2 due to original jurisdiction pursuant to 28 U.S.C. § 1332 since Plaintiff and Defendant  
 3 reside in two separate states and the amount in controversy is reasonably in excess of  
 4 \$75,000.

5 *Citizenship of the Parties*

6 10. For diversity purposes, a natural person is a citizen of the state where he or she is  
 7 domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F. 2d 1088, 1090 (9<sup>th</sup> Cir. 1981). A  
 8 natural person's domicile is the place he or she resides with the intention to remain or to  
 9 which he or she intends to return. *Kanter v. Warner-Lambert Co.*, 265 F. 3d 853, 857 (9<sup>th</sup>  
 10 Cir. 2001).

11 11. Plaintiff is a resident of the state of Alaska. **Dkt. 1-1, ¶ 1.**

12 12. For diversity purposes, a corporation is deemed to be a citizen of any state by which  
 13 it has been incorporated, as well as the state where it has its principal place of business. 28  
 14 U.S.C. § 1332(c)(1). The principal place of business refers to "the place where a  
 15 corporation's officers direct, control, and coordinate the corporation's activities," which  
 16 "should normally be the place where the corporation maintains its headquarters – provided  
 17 that the headquarters is the actual center of direction, control and coordination." *Hertz*  
 18 *Corp. v. Friend*, 559 U.S. 77, 92-93 (2010).

19 13. American Airlines is a Delaware corporation with headquarters and principal place  
 20 of business in Forth Worth, Texas, where its officers direct, control, and coordinate  
 21 American Airline's activities, and the majority of its executive and administrative functions  
 22 are performed. Thus, under 28 U.S.C. § 1332(c)(1), Defendant is a citizen of Texas and  
 23 Delaware – not a citizen of Alaska.

24 14. Accordingly, with Plaintiff a citizen of Alaska and Defendant a citizen of Delaware  
 25 and Texas, complete diversity exists between the parties.

26 *Amount in Controversy*

27 15. An action may be removed to and remain in federal court where the defendant  
 28

1 establishes, by a preponderance of the evidence, that the total amount-in-controversy  
 2 exceeds the jurisdictional amount. *See, Abrego v. Dow Chemical Co.*, 443 F. 3d 676, 683  
 3 (9th Cir. 2006); and *Bank of Calif. Nat'l Ass'n v. Twin Harbors Lumber Co.*, 465 F. 2d 489,  
 4 491 (9th Cir. 1972). If defendant shows “it is more likely than not” that the amount-in-  
 5 controversy exceeds \$75,000, satisfying the requirements, then the preponderance of the  
 6 evidence test, is satisfied. *Sanchez v. Monumental Life Ins. Co.*, 102 F. 3d 398, 404 (9th Cir.  
 7 1996).

8 16. “Defendants do not need to prove to a legal certainty that the amount in controversy  
 9 requirement has been met. Rather, defendants may simply allege or assert that the  
 10 jurisdictional threshold has been met.” *Dart Cherokee Basin Operating Co., LLC v. Owens*,  
 11 574 U.S. 81, 88-89 (2014). “A removing defendant’s notice of removal ‘need not contain  
 12 evidentiary submissions’ but only plausible allegations of the jurisdictional elements.”  
 13 *Arias v. Residence Inn*, 936 F.3d 920, 922 (9th Cir. 2019), citing *Ibarra v. Manheim*  
 14 *Investments, Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015). “[W]hen a defendant’s allegations  
 15 of removal jurisdiction are challenged, the defendant’s showing on the amount in  
 16 controversy may rely on reasonable assumptions.” *Arias, ibid.* In an action by a single  
 17 plaintiff against a single defendant, all claims can be aggregated to meet the minimum  
 18 jurisdictional amount. *Bank of Calif. v. Twin Harbors Lumber Co.*, 465 F. 2d 489, 491 (9th  
 19 Cir. 1972).

20 17. Additionally, for purposes of evaluating the total amount in controversy, the court  
 21 must presume the plaintiff will prevail on each and every one of their claims. *See, Kenneth*  
 22 *Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F. Supp. 993, 1001 (C.D. Cal. 2002),  
 23 citing *Burns v. Windsor Ins. Co.*, 31 F. 3d 1092, 1096 (11th Cir. 1994) (the amount in  
 24 controversy analysis presumes that “plaintiff prevails on liability”); and *Angus v. Shiley*  
 25 *Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (“the amount in controversy is not measured by the  
 26 low end of an open-ended claim, but rather by a reasonable reading of the value of the  
 27 rights being litigated”). In considering the aggregate reasonable amount in controversy,  
 28

amounts sought for punitive damages are properly included as well. *Davenport v. Mutual Ben. Health & Acc. Ass'n*, 325 F. 2d 785, 787 (9th Cir. 1963); *see also Aucina v. Amoco Oil Co.*, 871 F. Supp. 332 (S.D. Iowa 1994).

18. Here, Plaintiff's Complaint alleges Plaintiff suffered significant damages and prays for compensatory, general, special, punitive, and exemplary damages. Further, Plaintiff has certified this matter qualifies for Tier 3 discovery under Ariz. R. Civ. P. 26.2. **Dkt. #1-1, ¶ 13.** This means Plaintiff is claiming \$300,000 or more in damages. *See* Ariz. R. Civ. P. 26.2(c)(3)(C).

19. Given the claims alleged and the averment on an official pleading that Plaintiff is claiming over \$300,000 in damages, the amount in controversy exceeds \$75,000.

20. Accordingly, this Court has original jurisdiction in this action under 28 U.S.C. § 1332 because: (1) there is complete diversity of citizenship between the parties; and (2) the amount in controversy exceeds \$75,000.

### ***Venue***

21. Venue lies in this Court because the action is pending in this district and division, pursuant to 28 U.S.C. § 1441(a).

### ***Conclusion***

American Airlines requests that this Court retain jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446 as this matter meets all the necessary qualifications to exercise diversity jurisdiction.

Respectfully submitted,

Dated: May 3, 2024

By: /s/Taylor Allin  
Patrick J. Kearns, Esq.  
Taylor Allin, Esq.  
Attorney for Defendant, American Airlines  
Group, Inc. d/b/a American Airlines

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed and served this 3<sup>rd</sup> day of May, 2024, using this Court's CM/ECF filing system which will electronically transmit a copy to all counsel of record.

By: /s/ Taylor Allin